

1060 LOOKOUT: BACKING

[Insert appropriate paragraphs of Wis JI-Civil 1055, Lookout.]

A safety statute provides that the driver of a vehicle shall not back the vehicle unless the movement can be made with reasonable safety.

To comply with this statute, a driver must, before he or she backs the vehicle, use ordinary care to keep a careful lookout for the presence and location of other vehicles, objects, or pedestrians that may be approaching or within the driver's course of travel. In addition, the driver must exercise reasonable judgment in calculating the time required to reach a proper position on the highway (and the distance and speed of any vehicle seen by the driver to be approaching the driver's course of travel).

COMMENT

The instruction and comment were originally published in 1960. The instruction was revised in 2008. The comment was updated in 1980 and 2008.

Wis. Stat. § 346.87.

Driver or Operator. This instruction applies to either an operator or a driver of a motor vehicle. If "operator" is more appropriate to the evidence, then substitute "operator" for "driver."

As to calculation as a part of lookout, see Plog v. Zolper, 1 Wis.2d 517, 527, 85 N.W.2d 492, 498 (1957); Gleason v. Gillihan, 32 Wis.2d 50, 145 N.W.2d 90 (1966); Ogle v. Avina, 33 Wis.2d 125, 146 N.W.2d 422 (1966); Slattery v. Lofy, 45 Wis.2d 155, 172 N.W.2d 341 (1969).

In Slattery v. Lofy, supra, the court stated:

The rule that a driver before entering an arterial highway must not only exercise a proper lookout but also must make a reasonable judgment or calculation as to the time it will take to enter and reach a proper position on the highway was inapplicable where the evidence established that the overtaking driver had reached a proper place on the highway more than 400 feet beyond the point he had entered. 45 Wis.2d at 159.